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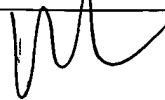
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,496	01/17/2002	William R. Mass	279.397US1	7282
21186	7590	10/05/2004		
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER MACHUGA, JOSEPH S	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/052,496	Applicant(s) MASS ET AL. 	
	Examiner Joseph S. Machuga	Art Unit 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☒ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 10, 14-25, 27-40 and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaseca et al #6240317 in view of O'phelan #5383914 or Lin #5411538 and Bradshaw et al #5545188.

Villaseca et al discloses an implant having an antenna, RF transceiver and an interface connector. The reference also teaches making the housing hermetically sealed. Also disclosed is the claimed demodulator (note Figures 3 and 5.) Not disclosed by this reference is the location of the electronics.

O'Phelan discloses a pacemaker. The reference teaches the use of modules (note Figure 20) to attach additional components to the pacemaker. Lin also teaches the use of modular components to secure additional components to a pacemaker housing. This design adds flexibility to the system.

Bradshaw et al teaches the use of user-attachable connectors to secure the components of a pacemaker together.

Given these disclosures it would have been obvious to one of ordinary skill in the art to secure the RF transceiver in a modular above the battery given the teachings of either O'Phelan or Lin that teach that this design adds flexibility to the system. To use user attachable connectors to secure the components together would have been obvious given Bradshaw et al's teaching that this simplifies the design and use of the design. To adjust output to expand the range to 6 feet is considered to be an obvious design expedient based upon the designed location of the equipment relative to the patient.

Claims 6, 7, 11, 41, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Villaseca et al #6240317 in view of O'phelan #5383914 or Lin #5411538 and Bradshaw et al #5545188.as applied to claims 1-5, 10, 14-25, 27-40 and 44-47 above, and further in view of Morgan et al #5476488.

Morgan discloses a telemetry system that includes the claimed amplitude modulator and amplifier (112.) The design provides reliable transmission of data.

Given Morgan et al's disclosure it would have been obvious to one of ordinary skill in the art to use a telemetry system such as that disclosed by Morgan et al in place of the one provided for by Villaseca et al to provide a reliable system.

Claims 7-9 and 11-13, 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable Villaseca et al #6240317 in view of O'phelan #5383914 or Lin #5411538, Bradshaw et al #5545188 and Morgan et al #5476488 as applied to claims 6, 7, 11 and 42 above, and further in view of Soykan et al #6236889.

Soykan et al teaches that amplitude, frequency or phase modulation are equivalent and acceptable alternatives (see the abstract.) Given this teaching it would have been obvious to one of ordinary skill in the art to use either amplitude, frequency or phase modulation in the telemetry system of the proposed combination to provide acceptable alternatives, each of which, have their own advantages.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Machuga whose telephone number is 703-305-6184. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700**